

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

LILA M. NOBLES

Claimant

VS.

ESSEX GROUP, INC.

Respondent

AND

NATIONAL UNION FIRE INSURANCE COMPANY

Insurance Carrier

AND

WORKERS COMPENSATION FUND

Docket No. 189,937

ORDER

The claimant has requested review of a Preliminary Order by Administrative Law Judge George R. Robertson dated July 17, 1995.

ISSUES

The Administrative Law Judge denied claimant's request for medical treatment for migraine headaches. Claimant asserts these migraines were aggravated or intensified by an injury to claimant's neck which arose out of and in the course of her employment. On that basis, claimant characterizes the issue as whether the migraine headaches are an injury which arose out of and in the course of claimant's employment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds that the issue raised by the claimant on appeal is not one subject to review on appeal from a preliminary hearing order. An order from a preliminary hearing is not subject to appeal unless the appealing party alleges that the administrative law judge exceeded his or her jurisdiction. Specific jurisdictional issues are listed in K.S.A. 44-534a.

Claimant attempts to characterize the issue raised here as whether migraine headaches are an injury which arose out of and in the course of claimant's employment. Whether an injury arose out of and in the course of employment is one of the issues subject to review on appeal as specifically listed in K.S.A. 44-534a. However, the Appeals Board considers the question raised on this appeal to be a question of the nature and extent of claimant's injury. Respondent has acknowledged that claimant suffered a neck injury in the course of her employment. The question here is whether the migraine headache symptoms are related to that injury. The Administrative Law Judge found, "[t]he burden of proof for establishing a causal connection between the injury and the resulting headaches has not been met." Because the Appeals Board considers this to be a question of nature and extent, the issue is not subject for review on appeal.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Order entered by Administrative Law Judge George R. Robertson dated July 17, 1995 should remain in force and effect as originally entered.

IT IS SO ORDERED.

Dated this ____ day of October, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Andrew L. Oswald, Hutchinson, Kansas
Jerry M. Ward, Great Bend, Kansas
David G. Shriver, McPherson, Kansas
George R. Robertson, Administrative Law Judge
Philip S. Harness, Director